

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

12040 COLWICK DRIVE, LTD.,

Plaintiff,

VS.

DEPOSITORS INSURANCE COMPANY,

Defendant.

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CIVIL CASE NO. SA-22-CV-1023-FB

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Before the Court are: (1) the Report and Recommendation of United States Magistrate Judge filed on May 19, 2025 (docket #22); (2) Plaintiff's Objections to Magistrate Judge's Report and Recommendation filed June 2, 2025 (docket #24); and (3) Defendant Depositors Insurance Company's Response to Plaintiff's Objections to the Magistrate Judge's Report & Recommendation to Grant Depositors' Motion for Summary Judgment filed on June 16, 2026 (docket #25).

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of them. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether they are either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report or Recommendation to which there are objections requires *de novo* review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a *de novo* review

when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1987).

In the Report, United States Magistrate Judge Chestney, after considering the summary judgment motion filed by the Defendant, the response and reply thereto, the summary judgment record, and the governing law, recommends to this Court that the motion for summary judgment on all of Plaintiff Colwick's claims, which includes claims for breach of contract, common law bad faith, and violations of the Texas Insurance Code, should be granted.


The Court has reviewed all of Plaintiff's objections as well as Defendant's response thereto and has conducted a de novo review of those issues properly raised by the Plaintiff in its objections. The Court finds, after careful consideration of the record and the Report and Recommendation, that the Plaintiff's objections lack merit and are overruled. Therefore, the Court hereby accepts, approves, and adopts the Magistrate Judge's factual findings and legal conclusions contained in the Report and Recommendation (docket #22), incorporates herein the arguments and authorities presented in Defendant Depositors Insurance Company's Response to Plaintiff's Objections to the Magistrate Judge's Report & Recommendation to Grant Depositors' Motion for Summary Judgment (docket #25), and finds the recommendation should be accepted such that Defendant Depositors Insurance Company's Rule 56 Motion for Summary Judgment (docket #15) shall be GRANTED such that all of the Plaintiff's claims and this case shall be DISMISSED WITH PREJUDICE.

Accordingly, it is hereby ORDERED that the Report and Recommendation of the United States Magistrate Judge filed in this cause on May 19, 2025 (docket #22), is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Defendant Depositors Insurance Company's Rule 56 Motion for Summary Judgment (docket #15) is GRANTED and all of the Plaintiff's claims and this case are

DISMISSED WITH PREJUDICE. IT IS FURTHER ORDERED that the stay entered in this case on March 31, 2024 (docket #20) is LIFTED. Motions pending, if any, are also DISMISSED, and this case is now CLOSED.

It is so ORDERED.

SIGNED this 30th day of June, 2025.



FRED BIERY
UNITED STATES DISTRICT JUDGE